

## § 9701.221

### CLASSIFICATION PROCESS

#### § 9701.221 Classification requirements.

(a) DHS must develop a methodology for describing and documenting the duties, qualifications, and other requirements of categories of jobs, and DHS must make such descriptions and documentation available to affected employees.

(b) An authorized agency official must—

(1) Assign occupational series to jobs consistent with occupational series definitions established by OPM under 5 U.S.C. 5105 and 5346 or by DHS, after coordination with OPM; and

(2) Apply the criteria and definitions required by § 9701.211 and § 9701.212 to assign jobs to an appropriate occupational cluster and band.

(c) DHS must establish procedures for classifying jobs and may make such inquiries or investigations of the duties, responsibilities, and qualification requirements of jobs as it considers necessary for the purpose of this section.

(d) Classification decisions become effective on the date designated by the authorized agency official who makes the decision.

(e) DHS must establish a plan to periodically review the accuracy of classification decisions.

#### § 9701.222 Reconsideration of classification decisions.

(a) An individual employee may request that DHS or OPM reconsider the pay system, occupational cluster, occupational series, or band assigned to his or her current official position of record at any time.

(b) DHS will, after coordination with OPM, establish implementing directives for reviewing requests for reconsideration, including nonreviewable issues, rights of representation, and the effective date of any corrective actions. OPM will, after consulting with DHS, establish separate policies and procedures for reviewing reconsideration requests.

(c) An employee may request OPM to review a DHS determination made under paragraph (a) of this section. If an employee does not request an OPM reconsideration decision, DHS's classi-

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fication determination is final and not subject to further review or appeal.

(d) OPM's final determination on a request made under this section is not subject to further review or appeal.

### TRANSITIONAL PROVISIONS

#### § 9701.231 Conversion of positions and employees to the DHS classification system.

(a) This section describes the transitional provisions that apply when DHS positions and employees are converted to a classification system established under this subpart. Affected positions and employees may convert from the GS system, a prevailing rate system, the SL/ST system, or the SES system, as provided in § 9701.202. For the purpose of this section, the terms “convert,” “converted,” “converting,” and “conversion” refer to positions and employees that become covered by the classification system as a result of a coverage determination made under § 9701.102(b) and exclude employees who are reassigned or transferred from a noncovered position to a position already covered by the DHS system.

(b) DHS will issue implementing directives prescribing policies and procedures for converting the GS or prevailing rate grade of a position to a band and for converting SL/ST and SES positions to a band upon initial implementation of the DHS classification system. Such procedures must include provisions for converting an employee who is retaining a grade under 5 U.S.C. chapter 53, subchapter VI, immediately prior to conversion. As provided in § 9701.373, DHS must convert employees to the system without a reduction in their rate of pay (including basic pay and any applicable locality payment under 5 U.S.C. 5304, special rate under 5 U.S.C. 5305, locality rate supplement under § 9701.332, or special rate supplement under § 9701.333).

#### § 9701.232 Special transition rules for Federal Air Marshal Service.

Notwithstanding any other provision in this subpart, if DHS transfers Federal Air Marshal Service positions from the Transportation Security Administration (TSA) to another organization within DHS, DHS may cover those positions under a classification

system that is parallel to the classification system that was applicable to the Federal Air Marshal Service within TSA. DHS may, after coordination with OPM, modify that system. DHS will issue implementing directives on converting Federal Air Marshal Service employees to any new classification system that may subsequently be established under this subpart, consistent with the conversion rules in § 9701.231.

### Subpart C—Pay and Pay Administration

#### GENERAL

#### § 9701.301 Purpose.

(a) This subpart contains regulations establishing pay structures and pay administration rules for covered DHS employees to replace the pay structures and pay administration rules established under 5 U.S.C. chapter 53, as authorized by 5 U.S.C. 9701. These regulations are designed to provide DHS with the flexibility to allocate available funds strategically in support of DHS mission priorities and objectives. Various features that link pay to employees' performance ratings are designed to promote a high-performance culture within DHS.

(b) Any pay system prescribed under this subpart must be established in conjunction with the classification system described in subpart B of this part.

(c) The pay system established under this subpart, working in conjunction with the performance management system established under subpart D of this part, is designed to incorporate the following features:

(1) Adherence to merit principles set forth in 5 U.S.C. 2301;

(2) A fair, credible, and transparent employee performance appraisal system;

(3) A link between elements of the pay system established in this subpart, the employee performance appraisal system, and the Department's strategic plan;

(4) Employee involvement in the design and implementation of the system (as specified in § 9701.105);

(5) Adequate training and retraining for supervisors, managers, and employ-

ees in the implementation and operation of the pay system established in this subpart;

(6) Periodic performance feedback and dialogue among supervisors, managers, and employees throughout the appraisal period, and setting timetables for review;

(7) Effective safeguards so that the management of the system is fair and equitable and based on employee performance; and

(8) A means for ensuring that adequate resources are allocated for the design, implementation, and administration of the performance management system that supports the pay system established under this subpart.

#### § 9701.302 Coverage.

(a) This subpart applies to eligible DHS employees in the categories listed in paragraph (b) of this section, subject to a determination by the Secretary or designee under § 9701.102(b).

(b) The following employees are eligible for coverage under this subpart:

(1) Employees who would otherwise be covered by the General Schedule pay system established under 5 U.S.C. chapter 53, subchapter III;

(2) Employees who would otherwise be covered by a prevailing rate system established under 5 U.S.C. chapter 53, subchapter IV;

(3) Employees in senior-level (SL) and scientific or professional (ST) positions who would otherwise be covered by 5 U.S.C. 5376; and

(4) Members of the Senior Executive Service (SES) who would otherwise be covered by 5 U.S.C. chapter 53, subchapter VIII, subject to § 9701.102(d).

#### § 9701.303 Waivers.

(a) When a specified category of employees is covered by the pay system established under this subpart, the provisions of 5 U.S.C. chapter 53, and related regulations, are waived with respect to that category of employees, except as provided in § 9701.106 and paragraphs (b) through (f) of this section.

(b) The following provisions of 5 U.S.C. chapter 53 are not waived:

(1) Section 5307, dealing with the aggregate limitation on pay;